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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Federal Communications Commission
Office of Secretary

In the Matter of)

Support Material for Carriers to File to)
Implement Access Charge Reform)
Effective January 1, 1998)

DA 97-2345

97-249 ✓
97-250

OPPOSITION TO MCI'S PETITION FOR RECONSIDERATION

U S WEST Communications, Inc. ("U S WEST") submits this Opposition to the Petition for Expedited Reconsideration submitted in this proceeding by MCI Telecommunications Corporation ("MCI").¹ In its Petition, MCI complains that the Common Carrier Bureau's ("Bureau") Tariff Review Plan Order,² prescribes the use of a "CAP-1" chart that MCI finds objectionable. MCI therefore asks the Bureau to require the price cap local exchange carriers ("LEC") to utilize a chart modified as MCI proposes.

The issue here arises from the Second Order on Reconsideration issued by the Federal Communications Commission ("Commission") in its Access Charge Reform proceeding.³ There, the Commission modified the "TIC exemption" it had originally

¹ Petition for Expedited Reconsideration filed Dec. 12, 1997 ("Petition").

² In the Matter of Support Material For Carriers to File to Implement Access Charge Reform Effective January 1, 1998, Tariff Review Plans, DA 97-2345, rel. Nov. 6, 1997 ("TRP Order").

³ In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure, CC Docket Nos. 96-262, 94-1 and 91-213, Second Order on Reconsideration and Memorandum Opinion and Order, FCC 97-368, rel. Oct. 9, 1997 ("Second Order on Reconsideration"), appeals pending, sub

ordered. That exemption allowed a competitive access provider ("CAP") to escape paying any portion of the transport interconnection charge ("TIC") if they interconnect with a LEC's switched network, but provide their own transport.⁴ On reconsideration, the Commission determined that CAPs should be exempt only from payment of those portions of the TIC that relate to transport. Other portions of the TIC, which cover switching costs, would continue to apply:

[I]nterexchange traffic that is switched at the incumbent LEC's local switch, but that is not transported on the incumbent LEC's local transport network, will be subject to the per-minute TIC, less the portion of the per-minute TIC attributable to incumbent LEC tandem-switching and tandem-switched transport transmission costs that have not yet been reallocated to facilities-based rate elements.⁵

The controversy arises because the Bureau's TRP Order requires the LECs to spread the revenue requirement associated with the cost of transport facilities to transport usage (i.e., non-CAP usage). MCI believes the Bureau should require the LECs to spread that revenue requirement over all usage, including CAP "usage," even though CAPs will pay nothing for this "usage." If the Commission were to adopt MCI's proposal, it would thereby preclude the LECs from recovering the full revenue requirement associated with their transport facilities. MCI believes this is appropriate, given the Commission's stated intent to use market forces to drive

noms. MCI Telecommunications Corporation v. FCC, No. 97-1681 (D.C. Cir.), AT&T Corp. v. FCC, No. 97-1678 (D.C. Cir.).

⁴ In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges, CC Docket Nos. 96-262, 94-1, 91-213 and 95-72, First Report and Order, 7 Comm. Reg. 1209, 1273-74 ¶ 240 (1997), appeals pending, sub nom. Southwestern Bell Telephone Co., et al. v. FCC, No. 97-2618 (8th Cir.).

⁵ Second Order on Reconsideration ¶ 61.

down the incumbent LECs' access revenues. MCI is wrong.

MCI would have the Commission spread this portion of the revenue requirement to phantom usage for which the incumbent LECs receive no revenue. By doing so, the Commission would effectively disallow a portion of the incumbent LECs' TIC revenue requirement. The Commission has not ordered that step, and it has made no findings to support it.

MCI claims the Bureau's method of calculating the TIC will insulate the facilities-related portion of the TIC from competitive pressures, and it presents an example to demonstrate this supposed effect. The example fails, however, because it assumes the LECs will calculate their TIC rates based on usage in the year in which the rates are charged. That is, the example assumes that rates are set on the basis of 100 minutes of use, of which 90 are provided by the LEC and 10 by CAPs. It then assumes the same overall usage and relative usage (as between the LEC and the CAPs) to determine the revenues obtained by the LEC during the tariff year.

In fact, rates are set based on the prior year's usage. Changes in the usage while those rates are in effect do not change the rates; rather, they are used to set the next year's rates, and so on. Thus MCI's example can track reality only if the overall usage and relative usage are the same from one year to the next. Experience tells us this will never happen. Moreover, competitive losses during the tariff year will result in the immediate loss of revenues; those losses are not recouped in following years. U S WEST's rates are thus sensitive to competitive

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 18th day of December, 1997, I have caused a copy of the foregoing **OPPOSITION TO MCI'S PETITION FOR RECONSIDERATION** to be served, via United States Mail, postage pre-paid, upon the persons listed on the attached service list.



Kelseau Powe, Jr.

*Served via hand-delivery

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pressures, regardless of the methodology used to set them.⁶ MCI's example proves nothing.

The Bureau's TRP Order prescribes the proper methodology. MCI's Petition should be denied.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By:



Richard A. Karre
Suite 700
1020 19th Street, N.W.
Washington, DC 20036
(303) 672-2791

Its Attorney

Of Counsel,
Dan L. Poole

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⁶ Indeed, because it would have the effect of reducing U S WEST's TIC rate, MCI's suggested change would do more to insulate the TIC from competition.

***William E. Kennard**
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, DC 20554

***Gloria Tristani**
Federal Communications Commission
Room 826
1919 M Street, N.W.
Washington, DC 20554

***Michael K. Powell**
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, DC 20554

***Harold Furchtgott-Roth**
Federal Communications Commission
Room 802
1919 M Street, N.W.
Washington, DC 20554

***Susan P. Ness**
Federal Communications Commission
Room 832
1919 M Street, N.W.
Washington, DC 20554

***A. Richard Metzger, Jr.**
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, DC 20554

***James Schlichting**
Federal Communications Commission
Room 518
1919 M Street, N.W.
Washington, DC 20554

***Judith A. Nitsche**
Federal Communications Commission
Room 518
1919 M Street, N.W.
Washington, DC 20554

***John Scott**
Federal Communications Commission
Room 518
1919 M Street, N.W.
Washington, DC 20554

***Rich Lerner**
Federal Communications Commission
Room 518
1919 M Street, N.W.
Washington, DC 20554

***International Transcription
Services, Inc.
1231 20th Street, N.W.
Washington, DC 20036**

**Linda Kent
United States Telephone Association
Suite 600
1401 H Street, N.W.
Washington, DC 20005-2110**

**Judy Sello
AT&T Corp.
Room 3245I1
295 North Maple Avenue
Basking Ridge, NJ 07920**

**Jay C. Keithley
GTE Telephone Companies
Suite 1100
1850 M Street, N.W.
Washington, DC 20036**

**Alan Buzacott
MCI Telecommunications Corporation
1801 Pennsylvania Avenue, N.W.
Washington, DC 20006**

**(DA97-2345DK/ss)
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